

## REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: September 26, 2005

ANALYST: Christopher Morse

- I. COMMITTEE: Lyndon LaRouche Political Action Committee  
(C00309567)  
Barbara Boyd, Treasurer  
Post Office Box 6157  
Leesburg, VA 20177
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(6)(B)(iii)  
2 U.S.C. §434(g)(1) and (2)  
11 C.F.R. §104.4(b)(2) and (c)
- III. BACKGROUND:

**Failure to Provide Supporting Schedules (Failure to File 48-Hour Notices and 24-Hour Notices)**

The Lyndon LaRouche Political Action Committee ("the Committee") failed to file three (3) 48-Hour Notices to support thirteen (13) independent expenditures totaling \$71,946.21 made up to and including the 20<sup>th</sup> day before the 2004 General Election. The Committee also failed to file five (5) 24-Hour Notices for thirteen (13) independent expenditures totaling \$62,513.70 made less than 20 days, but more than 24 hours before the 2004 General Election (Attachment 2).

On September 27, 2004, the Prior Notice listing the official filing dates for quarterly filers was sent to the Committee. The notice included a section titled *48- and 24-Hour Reports on Independent Expenditures*, which reads as follows, "Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. See 11 CFR 104.4. These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate" (Attachment 3).

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### 30 Day Post-General Report

On December 2, 2004, the Committee filed a 2004 30 Day Post-General Report (Image 24991460001) which included a Schedule E (Itemized Independent Expenditures) disclosing fourteen (14) independent expenditures totaling \$113,426.29 and opposing one (1) federal candidate. The Committee failed to file three (3) 48-Hour Notices for eight (8) independent expenditures totaling \$64,753.29 for the 2004 General Election. However, based upon the information and expenditures disclosed within this report, it originally appeared that the Committee was required to file 24-Hour Notices with the Commission (Image 24991460668).

On February 4, 2005, a Request for Additional Information ("RFAI") was sent to the Committee referencing the 2004 30 Day Post-General Report. The RFAI noted the Committee may have failed to file one or more of the required 24-Hour Notices for independent expenditures. Additionally, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration. A chart was included with the RFAI identifying six (6) independent expenditures totaling \$64,579.16, for which a 24-Hour Notice had not been filed<sup>1</sup> (Image 25038722421).

On March 7, 2005, the Committee filed a miscellaneous paper document which stated, "...the Committee's Assistant Treasurer mistakenly applied the old method for reporting independent expenditures under the 24 hour rule to all of the independent expenditures reported by the committee. Under the old rule, a reporting obligation was triggered when an actual expenditure of funds was made. In the Assistant Treasurer's understanding, the reporting obligation was triggered under the new 48 hour rule when \$5,000 was actually spent on a communication. The 24 hour reporting obligation was triggered when \$1,000 was actually spent during the time period specified for 24 hour reports." The Committee further stated that, "It is clear, upon review, that the Committee's understanding was significantly flawed concerning the application of the 24 and 48 hour notice rules to these expenditures. Even under its mistaken methodology, the Committee was tardy in some instances and missed filing notices for payments made on Friday, October 29<sup>th</sup>." The Committee's response indicated they had some difficulty determining the dissemination date because some of their communications go through multiple printings and distributions by a national volunteer network, but they ultimately decided to use the shipment date as the first possible date for dissemination. The Committee also contended that a number of the expenditures did not meet the criteria to be considered independent expenditures; however, they did not file any amendments to remove the independent expenditures in question from Schedule E (Image 25038750836).

On March 10, 2005, a Reports Analysis Division ("RAD") analyst called the Committee regarding the RFAI for the 2004 30 Day Post General Report. The Analyst stated to the Treasurer, Barbara Boyd, that given the amounts involved, failure to file 48-Hour Notices was a matter which could be referred to the Office of General Counsel for further consideration (Attachment 4).

<sup>1</sup> The chart failed to include two (2) independent expenditures totaling \$174.13.

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## Year End Report

On January 27, 2005, the Committee filed a 2004 Year End Report (Image 25970016494) which included a Schedule E (Itemized Independent Expenditures) disclosing eighteen (18) independent expenditures totaling \$69,706.62 and opposing one (1) federal candidate. The Committee failed to file three (3) 48-Hour Notices for five (5) independent expenditures totaling \$7,192.92 for the 2004 General Election. In addition, the Committee failed to file five (5) 24-Hour Notices for thirteen (13) independent expenditures totaling \$62,513.70 for the 2004 General Election. However, based upon the information and expenditures disclosed within this report, it originally appeared that the Committee was only required to file 24-Hour Notices with the Commission (Image 25970017132).

On April 8, 2005, an RFAI was sent to the Committee referencing the 2004 Year End Report. The RFAI noted the Committee may have failed to file one or more of the required 24-Hour Notices for independent expenditures. Additionally, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration. A chart was included with the RFAI identifying eighteen (18) independent expenditures, totaling \$69,706.62, for which a 24-Hour Notice had not been filed (Image 25038772042).

On May 9, 2005, the Committee's Treasurer, Barbara Boyd, called and spoke to a RAD analyst regarding the RFAI for the 2004 Year End Report. The Treasurer said the Committee would file an attorney's brief to answer issues raised in the RFAI. The Analyst explained that the response must be filed electronically or it would be considered inadequate. The Analyst further recommended that Ms. Boyd file the missing notices even though they would be late (Attachment 5).

The Committee filed a miscellaneous paper document on May 9, 2005, and a miscellaneous electronic document on May 10, 2005 that appear to be duplicates. These documents referenced the Committee's previous responses which indicated the Committee's Assistant Treasurer misunderstood the applicable regulation and, as such, no 48 or 24 Hour notices were filed for certain communications. The Committee stated that they had some difficulty determining the dissemination date and, "As noted in previous responses, the Committee does not know whether the regulatory phrase, "otherwise disseminated" means one copy, substantial distribution of the pamphlets, or distribution of all of the pamphlets and the Committee did not keep exact records of dissemination through its networks of volunteers." Also, the Committee reiterated they do not believe some of the communications constitute independent expenditures. In addition, the miscellaneous paper document included attached examples of some of the communications (Image 25038810967 and 25990746294).

On May 10, 2005, a RAD analyst called the Committee regarding the RFAI for the 2004 Year End Report. The Analyst spoke to the Treasurer, Barbara Boyd, and reminded her that as with the 30 Day Post-General Report, given the amounts involved, failure to file 24 and 48-Hour Notices was a matter which would be referred to the Office of General Counsel for further consideration (Attachment 6).

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To date, there have been no further communications provided by the Committee regarding this matter.

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